



Rep. William Davis

**Filed: 4/15/2005**

09400HB2312ham003

LRB094 03307 RSP 45242 a

1 AMENDMENT TO HOUSE BILL 2312

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2312 by replacing  
3 everything after the enacting clause with the following:

4 "Section 90-25. The Illinois Procurement Code is amended by  
5 changing Sections 1-15.30, 15-25, 20-25, 20-30, 20-80, 50-20,  
6 50-30, and 50-60 and by adding Section 50-37 as follows:

7 (30 ILCS 500/1-15.30)

8 Sec. 1-15.30. Contract. "Contract" means all types of State  
9 agreements, regardless of what they may be called, for the  
10 procurement, use, or disposal of supplies, services,  
11 professional or artistic services, or construction or for  
12 leases of real property or capital improvements, and including  
13 master contracts, contracts for financing through use of  
14 installment or lease-purchase arrangements, renegotiated  
15 contracts, amendments to contracts and change orders. The  
16 changes to this Section made by this amendatory Act of the 94th  
17 General Assembly apply to amendments executed on or after its  
18 effective date.

19 (Source: P.A. 90-572, eff. 2-6-98.)

20 (30 ILCS 500/15-25)

21 Sec. 15-25. Bulletin content.

22 (a) Invitations for bids. Notice of each and every contract  
23 that is offered, including renegotiated contracts and change

1 orders, shall be published in the Bulletin. The applicable  
2 chief procurement officer may provide by rule an organized  
3 format for the publication of this information, but in any case  
4 it must include at least the date first offered, the date  
5 submission of offers is due, the location that offers are to be  
6 submitted to, the purchasing State agency, the responsible  
7 State purchasing officer, a brief purchase description, the  
8 method of source selection, and information of how to obtain a  
9 comprehensive purchase description and any disclosure and  
10 contract forms.

11 (b) Contracts let or awarded. Notice of each and every  
12 contract that is let or awarded, including renegotiated  
13 contracts and change orders, shall be published in the next  
14 available subsequent Bulletin, and the applicable chief  
15 procurement officer may provide by rule an organized format for  
16 the publication of this information, but in any case it must  
17 include at least all of the information specified in subsection  
18 (a) as well as the name of the successful responsible bidder or  
19 offeror, the contract price, the number of unsuccessful  
20 responsive bidders, and any other disclosure specified in any  
21 Section of this Code. This notice shall include the disclosures  
22 required under Section 50-37.

23 (c) Emergency purchase disclosure. Any chief procurement  
24 officer, State purchasing officer, or designee exercising  
25 emergency purchase authority under this Code shall publish a  
26 written description and reasons and the total cost, if known,  
27 or an estimate if unknown and the name of the responsible chief  
28 procurement officer and State purchasing officer, and the  
29 business or person contracted with for all emergency purchases  
30 in the next timely, practicable Bulletin. This notice must be  
31 posted in the online electronic Bulletin within 10 business  
32 days after the earlier of (i) execution of the contract or (ii)  
33 whenever services or goods begin to be provided under the  
34 contract and, in any event, prior to any payment by the State

1 under the contract.

2 (c-5) Each State agency shall post online on the  
3 Procurement Bulletin a copy of its annual report of utilization  
4 of businesses owned by minorities, females, and persons with  
5 disabilities as submitted to the Business Enterprises Council  
6 for Minorities, Females, and Persons with Disabilities  
7 pursuant to Section 6(c) of the Business Enterprise for  
8 Minorities, Females, and Persons with Disabilities Act within  
9 10 business days of its submission of its final report to the  
10 Council.

11 (d) Other required disclosure. The applicable chief  
12 procurement officer shall provide by rule for the organized  
13 publication of all other disclosure required in other Sections  
14 of this Code in a timely manner.

15 (e) The changes to this Section made by this amendatory Act  
16 of the 94th General Assembly apply to reports submitted, offers  
17 made, and notices on contracts executed on or after its  
18 effective date.

19 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

20 (30 ILCS 500/20-25)

21 Sec. 20-25. Sole source procurements. In accordance with  
22 standards set by rule, contracts may be awarded without use of  
23 the specified method of source selection when there is only one  
24 economically feasible source for the item. This Section may  
25 not, except as authorized by the Chief Procurement Officer, be  
26 used as a basis for amending a contract if the amendment would  
27 result in an increase in the amount paid under the contract of  
28 more than 5% of the initial award. An expiring contract may be  
29 extended if necessary to have a contract in place for provision  
30 with supplies or services, but only for such period as is  
31 needed to complete a competitive procurement. At least 2 weeks  
32 before entering into a sole source contract, the purchasing  
33 agency shall publish in the Illinois Procurement Bulletin a

1 notice of intent to do so along with a description of the item  
2 to be procured and the intended sole source contractor. The  
3 changes to this Section made by this amendatory Act of the 94th  
4 General Assembly apply to amendments executed on or after its  
5 effective date.

6 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

7 (30 ILCS 500/20-30)

8 Sec. 20-30. Emergency purchases.

9 (a) Conditions for use. In accordance with standards set by  
10 rule, a purchasing agency may make emergency procurements  
11 without competitive sealed bidding or prior notice when there  
12 exists a threat to public health or public safety, or when  
13 immediate expenditure is necessary for repairs to State  
14 property in order to protect against further loss of or damage  
15 to State property, to prevent or minimize serious disruption in  
16 critical State services that affect health, safety, or  
17 collections of substantial State revenue, or to ensure the  
18 integrity of State records; provided, however, that the term of  
19 the emergency purchase shall when practicable be limited to the  
20 time reasonably needed for a competitive procurement.

21 Emergency procurements shall be made with as much competition  
22 as is practicable under the circumstances. A written  
23 description of the basis for the emergency and reasons for the  
24 selection of the particular contractor shall be included in the  
25 contract file.

26 (b) Notice. Before the next appropriate volume of the  
27 Illinois Procurement Bulletin, the purchasing agency shall  
28 publish in the Illinois Procurement Bulletin a copy of each  
29 written description and reasons and the total cost of each  
30 emergency procurement made during the previous month. When only  
31 an estimate of the total cost is known at the time of  
32 publication, the estimate shall be identified as an estimate  
33 and published. When the actual total cost is determined, it

1 shall also be published in like manner before the 10th day of  
2 the next succeeding month.

3 (c) Affidavits. A purchasing agency making a procurement  
4 under this Section shall file affidavits with the chief  
5 procurement officer and the Auditor General within 10 days  
6 after the procurement setting forth the amount expended, the  
7 name of the contractor involved, and the conditions and  
8 circumstances requiring the emergency procurement. When only  
9 an estimate of the cost is available within 10 days after the  
10 procurement, the actual cost shall be reported immediately  
11 after it is determined. At the end of each fiscal quarter, the  
12 Auditor General shall file with the Legislative Audit  
13 Commission and the Governor a complete listing of all emergency  
14 procurements reported during that fiscal quarter. The  
15 Legislative Audit Commission shall review the emergency  
16 procurements so reported and, in its annual reports, advise the  
17 General Assembly of procurements that appear to constitute an  
18 abuse of this Section.

19 (d) Quick purchases. The chief procurement officer may  
20 promulgate rules extending the circumstances by which a  
21 purchasing agency may make purchases under this Section,  
22 including but not limited to the procurement of items available  
23 at a discount for a limited period of time.

24 (e) The changes to this Section made by this Amendatory Act  
25 of the 94th General Assembly apply to procurements executed on  
26 or after its effective date.

27 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

28 (30 ILCS 500/20-80)

29 Sec. 20-80. Contract files.

30 (a) Written determinations. All written determinations  
31 required under this Article shall be placed in the contract  
32 file maintained by the chief procurement officer.

33 (b) Filing with Comptroller. Whenever a grant, defined

1 pursuant to accounting standards established by the  
2 Comptroller, or a contract liability, except for: (1) contracts  
3 paid from personal services, or (2) contracts between the State  
4 and its employees to defer compensation in accordance with  
5 Article 24 of the Illinois Pension Code, exceeding \$10,000 is  
6 incurred by any State agency, a copy of the contract, purchase  
7 order, grant, or lease or amendments thereto shall be filed  
8 with the Comptroller within 15 days of execution. ~~thereafter.~~  
9 Any cancellation or modification to any such contract liability  
10 shall be filed with the Comptroller within 15 days of its  
11 execution.

12 (c) Late filing affidavit. When a contract, purchase order,  
13 grant, or lease or amendment thereto required to be filed by  
14 this Section has not been filed within 15 ~~30~~ days of execution,  
15 notice shall be filed with the Comptroller within 15 days of  
16 execution indicating that a contract or amendment thereto  
17 described within the notice has been executed and will not be  
18 filed within 15 days of execution, and the Comptroller shall  
19 refuse to issue a warrant for payment thereunder until the  
20 agency files with the Comptroller the contract, purchase order,  
21 grant, or lease or amendment thereto and an affidavit, signed  
22 by the chief executive officer of the agency or his or her  
23 designee, setting forth an explanation of why the contract  
24 liability was not filed within 15 ~~30~~ days of execution. A copy  
25 of this affidavit shall be filed with the Auditor General.

26 (d) Professional and artistic services contracts. No  
27 voucher shall be submitted to the Comptroller for a warrant to  
28 be drawn for the payment of money from the State treasury or  
29 from other funds held by the State Treasurer on account of any  
30 contract for services involving professional or artistic  
31 skills involving an expenditure of more than \$5,000 for the  
32 same type of service at the same location during any fiscal  
33 year unless the contract is reduced to writing before the  
34 services are performed and filed with the Comptroller. When a

1 contract for professional or artistic skills in excess of  
2 \$5,000 was not reduced to writing before the services were  
3 performed, the Comptroller shall refuse to issue a warrant for  
4 payment for the services until the State agency files with the  
5 Comptroller:

6 (1) a written contract covering the services, and

7 (2) an affidavit, signed by the chief executive officer  
8 of the State agency or his or her designee, stating that  
9 the services for which payment is being made were agreed to  
10 before commencement of the services and setting forth an  
11 explanation of why the contract was not reduced to writing  
12 before the services commenced.

13 A copy of this affidavit shall be filed with the Auditor  
14 General. The Comptroller shall maintain professional or  
15 artistic service contracts filed under this Section separately  
16 from other filed contracts.

17 (e) Method of source selection. When a contract or  
18 amendment thereto is filed with the Comptroller under this  
19 Section, the Comptroller's file shall identify the method of  
20 source selection used in obtaining the contract.

21 (f) The changes to this Section made by this amendatory Act  
22 of the 94th General Assembly apply to contracts, purchase  
23 orders, grants, or leases or amendments thereto executed on or  
24 after its effective date.

25 (Source: P.A. 90-572, eff. date - See Sec. 99-5; 91-904, eff.  
26 7-6-00.)

27 (30 ILCS 500/50-20)

28 Sec. 50-20. Exemptions. With the approval of the  
29 appropriate chief procurement officer involved, the Governor,  
30 or an executive ethics board or commission he or she  
31 designates, may exempt named individuals from the prohibitions  
32 of Section 50-13 when, in his, her, or its judgment, the public  
33 interest in having the individual in the service of the State

1 outweighs the public policy evidenced in that Section. An  
2 exemption is effective only when it is filed with the Secretary  
3 of State and the Comptroller and includes a statement setting  
4 forth the name of the individual and all the pertinent facts  
5 that would make that Section applicable, setting forth the  
6 reason for the exemption, and declaring the individual exempted  
7 from that Section. Except in emergency situations, exemptions  
8 must be filed with the Secretary of State and Comptroller prior  
9 to execution of any contracts and a copy of ~~Notice~~ of each  
10 exemption shall be published in the Illinois Procurement  
11 Bulletin in its electronic form prior to execution of the  
12 contract. The changes to this Section made by this amendatory  
13 Act of the 94th General Assembly apply to exemptions granted on  
14 or after its effective date.

15 (Source: P.A. 90-572, eff. 2-6-98.)

16 (30 ILCS 500/50-37 new)

17 Sec. 50-37. Contract award disclosure.

18 (a) For purposes of this Section:

19 "Contracting entity" means an entity that would execute any  
20 contract with a State agency.

21 "Key persons" means any persons who (i) have an ownership  
22 or distributive income share in the contracting entity that is  
23 in excess of 5%, or an amount greater than 60% of the annual  
24 salary of the Governor; (ii) serve as executive officers of the  
25 contracting entity; (iii) are employed by the contracting  
26 entity who are required to register under the Lobbyist  
27 Registration Act; (iv) are individuals or entities with whom  
28 the contracting entity is contracting who are required to be  
29 registered as lobbyists under the Lobbyist Registration Act; or  
30 (v) are employed by the contracting entity who are special  
31 government agents as defined in Section 4A-101(1) of the  
32 Illinois Governmental Ethics Act.

33 (b) For contracts with an annual value of \$50,000 or more

1 all offers from responsive bidders or offerors shall be  
2 accompanied by disclosure of the names of the following:

3 (1) The contracting entity.

4 (2) Any entity that is a parent of, or owns a  
5 controlling interest in, the contracting entity.

6 (3) Any entity that is a subsidiary of, or in which a  
7 controlling interest is owned by the contracting entity.

8 (4) Any State, local, or federal political committee  
9 that makes or may make political contributions on behalf of  
10 the contracting entity.

11 (5) The contracting entity's key persons.

12 (c) Notices of contracts let or awarded published in the  
13 Procurement Bulletin pursuant to Section 15-25 shall include as  
14 part of the notice posted online the names disclosed by the  
15 winning bidder or offeror pursuant to subsection (b).

16 (d) The changes made to this Section made by this  
17 amendatory Act of the 94th General Assembly apply to contracts  
18 first offered on or after its effective date.

19 (30 ILCS 500/50-60)

20 Sec. 50-60. Voidable contracts.

21 (a) If any contract or amendment thereto is entered into or  
22 purchase or expenditure of funds is made at any time in  
23 violation of this Code or any other law, the contract or  
24 amendment thereto may be declared void by the chief procurement  
25 officer or may be ratified and affirmed, provided the chief  
26 procurement officer determines that ratification is in the best  
27 interests of the State. If the contract is ratified and  
28 affirmed, it shall be without prejudice to the State's rights  
29 to any appropriate damages.

30 (b) If, during the term of a contract, the contracting  
31 agency determines that the contractor is delinquent in the  
32 payment of debt as set forth in Section 50-11 of this Code, the  
33 State agency may declare the contract void if it determines

1 that voiding the contract is in the best interests of the  
2 State. The Debt Collection Board shall adopt rules for the  
3 implementation of this subsection (b).

4 (c) If, during the term of a contract, the contracting  
5 agency determines that the contractor is in violation of  
6 Section 50-10.5 of this Code, the contracting agency shall  
7 declare the contract void.

8 (d) The changes to this Section made by this amendatory Act  
9 of the 94th General Assembly apply to actions taken by the  
10 Comptroller and Treasurer on or after its effective date.

11 (Source: P.A. 92-404, eff. 7-1-02; 93-600, eff. 1-1-04.)

12 Section 99-5. Effective date. This Act takes effect upon  
13 becoming law."